

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

POLY-AMERICA, L.P.,

Plaintiff,

CIVIL ACTION

v.

Case No.: 1:21-cv-08195-JSR-BCM

API INDUSTRIES, INC.,

Defendant.

API INDUSTRIES, INC.,

Counterclaim-Plaintiff,

**NOTICE OF MOTION FOR SUMMARY
JUDGMENT**

v.

POLY-AMERICA, L.P.,

Counterclaim-Defendant.

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, Rule 56.1 Statement and Declaration of Tal S. Benschar, and upon all pleadings previously filed with the Court, Defendant Counterclaim Plaintiff API Industries, Inc. (“API”) will move this Court, located at Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, NY 10007 on a date to be determined by the Court, for the following relief:

(1) Grant of summary judgment on API’s counterclaim for declaratory relief, pursuant to 28 USC 2201 and Rule 56 of the Federal Rules of Civil Procedure, to the effect that Poly-America, L.P. (“Poly-America”) has no legal rights in the Orange Drawstring Mark under the Lanham Act or common law, and API is free to manufacture, market and sell trashbags with orange drawstrings without infringing any right of Poly-America.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 6.1(b) of the Local Rules of Civil Procedure for the Southern District of New York, any opposing affidavits and/or answering memoranda are to be served within fourteen days of service hereof.

KOFFSKY SCHWALB LLC

Dated: May 20, 2022
New York, New York

By: /s/ Efrem Schwalb
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